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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,999	12/29/2000	Ali Najib Saleh	CIS0008C1US	8353
33031 7590 06/29/2009 CAMPBELL STEPHENSON LLP 11401 CENTURY OAKS TERRACE BLDG. H, SUITE 250 AUSTIN, TX 78758				
EXAMINER NGUYEN, HANH N				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
06/29/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/751,999

**Applicant(s)**

SALEH ET AL.

**Examiner**

Hanh Nguyen

**Art Unit**

2416

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☒ Claim(s) See Continuation Sheet is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims pending in the application are 38-70, 111, 113-124, 126-137, 139-150, 152-163, 165-177, 179-191, 193-205 and 207-227.

Continuation of Disposition of Claims: Claims rejected are 38-53, 55-70, 111, 118, 124, 131, 137, 144, 150, 157, 163, 165-168, 177, 179-182, 191, 193-196, 205, 207-210, 224-227.

Continuation of Disposition of Claims: Claims objected to are 54, 113-117, 119-123, 126-130, 132-136, 139-143, 145-149, 152-156, 158-162, 169-176, 183-190, 197-204, 211-220 and 223.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed on 4/23/09, have been fully considered but they are not persuasive.

Regarding clarification on claim 40, Applicant requests clarification on ground of rejection. Examiner responses that the rejection of claim 40 was already indicated in the previous Action mailed on 1/22/09 ( see page 2). The rejection of claim 40 is rejected over Spiegel et al. in view of Peerlman, and further in view of Chou.

Regarding clarification on claim 52, examiner had responded in the previous action filed on 1/22/09 ( see page 2) that claim 52 is rejected over Spiegel in view of Peerlman, and further in view of Bare.

Regarding clarification on claim 47, claim 47 is rejected over Spiegel in view of Perlman and further in view of Chou. ( see office action on page 7).

Regarding claims 42, 46, Claims 42, 46 are rejected over Spiegel in view of Perlman and further in view of Martin ( see page 8).

Regarding claims 43, 44, Claims 43, 44 are rejected over Spiegel in view of Perlman and further in view of Wacławsky ( see page 7).

The headings of the above claims 40, 42, 43, 44, 46, 47, 52 have been corrected.

Regarding claims 53, 70, The rejection of claims 53, 70 has been corrected as being rejected over Spiegel, Perlman and Fukushima which is shown on page 11 which as a new heading.

Regarding clarification on claims 118, 131, 144, 157. Examiner responded in the previous action ( page 3) that Claims 118, 131, 144, 157 depend on claims 111, 124, 137, 150 and are rejected under 102(e) as being anticipated by Fukushima et al. Since there was an unintentional duplication of the rejection which created some confusion, The rejection of claims 118, 131, 144, 157 is now updated as shown on page 12.

Regarding claims 111, 124, 137, 150, applicant on pages 43-46 repeats his argument "Fukushima et al. does not disclose said at least one node identifies a node in a network for which said sending node seeks link state advertisement" which was already discussed in the previous action. Examiner had responded this argument in the previous action ( see page 3 in the previous action). Therefore, examiner believes that it is not necessary to response again and maintains the same position.

Regarding claims 163, 177, 191 and 205, applicant , on pages 46-48 repeats his argument "Fukushima et al. does not disclose sending the link state information from the down stream node and sending an ACK from the down stream node" which was already discussed in the previous action. Examiner had responded this argument in the previous action ( see pages 3&4 in the previous action). Therefore, examiner believes that it is not necessary to response again and maintains the same position.

Regarding claims 118, 131, 144, 157, 165-168, 179-182, 193-196, 207-210, applicant argues on page 49 that these claims should be allowable because the cited references fail to disclose each limitation of the the claims. However, Applicant does not provide

reason why each of the above claims is allowable or why the cited references fail to disclose each limitation in each claim besides claim 118.

This action is made Non-final due to errors occurs in the headings of claim rejection which has been corrected.

### ***Claim Objections***

Claim 221 is objected to because of the following informalities: claim 221 can not be dependent on claim 222 which has a larger number. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

Claims 225, 226, 227 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 225, it is not clearly addressed in the claim what does "a same instance packet" means ?

Claim 226 depends on claim 38 and lacks of antecedent basis at "said determining " on line 1; "said subsequent protocol packet" on lines 2, 3. Further, there is not relationship between "said subsequent protocol packet" and " said protocol packet" which are both received from a first tandem node.

Claim 227 depends on claim 38 and lacks of antecedent basis at "said determining " on line 1; "said subsequent protocol packet" on lines 2, 3. Further, there is not relationship between "said subsequent protocol packet" and " said protocol packet" which are both sent from a first origin node.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38, 39, 41, 45, 48-51, 55, 56, 57-68 are rejected under 35 USC 103(a) as being unpatentable over Spiegel et al. ( US pat. 5,649,108) in view of Peerlman ( US Pat. 5,455,865).

In claim 38, 39, 49, 50, 51,57, note; the protocol packet is further defined in claim 62 as "a create path packet"; claim 70 as "a configure packet". Therefore, examiner cites "a request/connection setup packet" in Spiegel as one of these packet above. Spiegel et al. discloses a method comprising receiving a protocol packet transmitting from an origin node to neighbors of the origin nodes to find the target node (see ATM network in figure 1, fig.2, col.6, lines 10-15; receiving a request/ connection setup packet at each intermediate nodes from which the packet is routed to a destination node via selected output port; col.5, line 35 to col.6, line 50; and a source route is searched through network along nodes based on least cost); the protocol packet is configured to record a protocol packet path from the origin node to the target node (see fig.3, col.5, lines 62 to col.6, line 15; each a connection setup packet contains source address, destination address (for claim 39), a source route which is a list of nodes that the connection setup packet should pass through, and a

record route which is a list of nodes through which the connection has already been established ); the protocol packet comprises information regarding a topology of at least a portion of said network ( the topology of the at least a portion of network is source address, destination address, VCI ( claim 49), cost 35 ( claim 50), QOS parameters ( claim 51; col.6, lines 45-52); a source route and a record route). Spiegel further discloses storing in a memory information regarding the protocol packet ( see col.5, lines 51-55; memory 17 stores costs of links extending from one node to adjacent nodes and their node identifiers. The cost of links as being shown in fig.3 col.6, lines 5-10 is included in the connection request packet.

Spiegel does not disclose broadcasting the protocol packet to a plurality of neighbors of said origin node.

Perlman discloses in fig.1, a source node 16 transmits a data packet to a destination node 24 via alternative routes ( see col.4, lines 45-60). The source node 16 first identifies its neighbor nodes by broadcasting link state packet to entire network ( see col.6, lines 1-7 and step 94 in fig.3B ). The link state packet comprises neighbor ID's 78 ( see fig.3A, col.6, lines 28-32). Therefore, it would have been obvious to one ordinary skilled in the art to combine the teaching of broadcasting link state packet to neighbor nodes of Perlman with the teaching of Spiegel in order to determine network topology before transmitting packet from source to destination and avoid link failure during transmission.



Claims 69 is rejected under 35 USC 103(a) as being unpatentable over Spiegel et al. ( US pat. 5,649,108) in view of Peerlman ( US Pat. 5,455,865), and further in view of Azuma et al. ( US Pat. 6,430,150 B1).

In claim 69, the combination of Spiegel and Peerlman does not disclose the protocol packet is a link down packet. Azuma et al. discloses, in col.4, lines 40-50, in an event of a link failure in the network, nodes adjacent to the location of the failure detect it and send an alarm message ( link down packet) to notify all other nodes in the network of the failure. Since the specification describes the link down packet as an alarm message sent by a slave node to the master node when a link is failed, therefore, the alarm message broadcasted to nodes in the network of Azuma performs the same function as the claimed link down packet. Therefore, it would have been obvious to one skilled in the art to combine the teaching of Azuma et al. with the combination of Spiegel and Peerlman to notify the network nodes of the link failure and to reroute the network traffic and avoid congestion.

Claims 40, 47 are rejected under 35 USC 103(a) as being unpatentable over Spiegel et al. ( US pat. 5,649,108) in view of Peerlman ( US Pat. 5,455,865) , and further in view of Chou ( US pat. 5,850,526).

In claims 40, 47, Spiegel et al. does not disclose header includes a flush indication field. Chou discloses in fig.6, col.8, lines 30-45, a header of a packet transmitted from a source device comprises flush bit 78 set by the source node ( header includes a flush indication field). Therefore, it would have been obvious to one

skilled in the art to comprise a flush bit into the header of connection setup packet to release resource for other connection.

Claims 43, 44 are rejected under 35 USC 103(a) as being unpatentable over Spiegel et al. ( US pat. 5,649,108) in view of Peerlman ( US Pat. 5,455,865) , and further in view of Waclawsky et al. ( US pat. 5,197,127).

IN claims 43, 44, Spiegel et al. discloses as connection through network is blocked, a NACK is transmitted to source node ( see col.7, lines 30-35) , but there is no indication of a request/response or negative response indicator fields described in Spiegel. Waclawsky et al. discloses in fig.2, header 62 of a packet comprises a request/respponse bit REQ/RESP bit 14 ( see col.3, lines 25-32). Therefore, it would have been obvious to one skilled in the art to comprises the request/response bit 14 into the connection setup packet of Spiegel et al. to indicate whether the transmitted packet is received or not at the destination node.

In claims 41, 45, Spiegel et al. discloses fig.4, in col.7, lines 30-45 if the connection through the network is blocked, controller 12 of source node sends a release packet via other nodes and the corresponding entry of that connection in the forwarding table is also removed. Eventhough the terminate path indicator field is not explicitly disclose in the release packet, but the transmitting of release packet to indicate the connection being blocked is well-known to one skilled in the art that there must be some indication in the release packet shows that the connection has been blocked and removed. The indication is obvious to include a terminate path indicator field.

Claims 42, 46 are rejected under 35 USC 103(a) as being unpatentable over Spiegel et al. ( US pat. 5,649,108) in view of Peerlman ( US Pat. 5,455,865) , and further in view of Martin et al. ( US pat. 6,092,086).

In claims 42 and 46, Spiegel does not disclose a commit path indicator field. Martin et al. discloses in fig.32, step 896, a packet is created with a commit flag ( commit path indicator field). Therefore, it would have been obvious to one skilled in the art to have a commit flag comprised in connection setup packet of Spiegel et al. to indicate whether a specific path has been committed to by other nodes.

In claim 48, the specification in page 52, lines 17-20 describes the initialize packet as protocol packet, therefore, the protocol packet disclosed by Spiegel in claim 38 is initialize packet.

Claim 52 is rejected under 35 USC 103(a) as being unpatentable over Spiegel et al. ( US pat. 5,649,108) in view of Peerlman ( US Pat. 5,455,865) , and further in view of Bare ( US pat. 6,865,160 B1).

In claim 52, Spiegel et al. does not disclose hello interval field and hello dead interval field. Bare discloses hello interval ( see col.18, lines 35-45; hello requests sent at one second intervals for 5 seconds ) and hello dead interval ( col.17, lines 50 to col.18, line 20 if deadcount hello intervals go by without receiving a hello packet on a link that had previously been receiving hello packets, the link is no longer exist). Therefore, it would have been obvious to one skilled in the art to combine the deadcount hello intervals as hello dead interval in the packet of Spiegel et al. to help the

source node transmitting hello packet determine that the hello packet is not acknowledged after waiting a time period.

In claim 58, Spiegel et al. discloses protocol packet is restore path packet (see fig.3, step 306; col.5, lines 47-53 or pack message at fig.5, steps 504).

In claim 55, Spiegel discloses link state advertisement field (control flag 38; fig .3).

In claim 56, Spiegel et al. discloses a neighbor field ( destination node 31 ; fig.3) ; and a link cost field ( see fig.3, cost 35)

In claim 59, Spiegel et al. discloses a virtual path ID field ( see fig.2; forwarding table 20 including VCI identification and fig.3, VCI 32).

In claim 60, Spiegel et al. discloses a path length field / link cost field ( see fig.3, source route 33, cost 35).

In claim 62, Spiegel et al. discloses protocol packet is a create path packet ( connection/setup path packet; see claim 38).

In claim 61, Spiegel et al. discloses path array (fig.1 shows spans AB, BD, DF, FG).

In claims 63 and 65, the limitations of this claim have been addressed in claims 59, 60 and 61.

In claim 64, Spiegel et al. discloses a delete path packet (see fig.4, step 55; VC connection request is rejected; col.7, lines 50-55).

In claim 67, Spiegel et al. discloses identifying eligible neighbor nodes of said origin node ( see fig.4, step 41, find shortest path from routing table; col.6, lines 50-54), wherein said eligible neighbor nodes are nodes that are suitable for a virtual path between said origin node and said target node ( as shown in fig.4, step 40, col.6, lines 40-47; the shortest path is a requested virtual circuit), and said protocol packet is broadcast to each of said plurality of eligible neighbor nodes (disclosed in claim 38; see Perlman; col.6, lines 1-7 and step 94 in fig.3B; the source node 16 first identifies its neighbor nodes by broadcasting link state packet to entire network).

In claims 66 and 68, the combination of Spiegel et al. and Perlman discloses the protocol packet is a get link state advertisement packet ( see Perlman in fig.3A, link state packet 68; col.6, lines 10-30) and test packet ( see col.5, lines 58-67, transmitting handshake packet to verify identities of neighbor nodes).

Claims 53, 70 are rejected under 35 USC 103(a) as being unpatentable over Spiegel et al. ( US pat. 5,649,108) in view of Peerlman ( US Pat. 5,455,865) , and further in view of Fukushima ( US Pat. 6,490,246 B2).

\*In claim 53, the combination of Spiegel et al. and Perlman does not disclose the protocol packet is a hello packet. Fukushima et al. discloses in figure 8, step 121, the packet received at the node is protocol packet such as hello packet ( see col.10, lines 20-25). Therefore, it would have been obvious to transmit protocol/hello packet in Spiegel et al. to update network topology.

\*In claim 70, the combination of Spiegel and Perlman does not disclose protocol packet is a configured packet. Fukushima discloses, in col.2, lines 25-35, that if a router has not received hello packet from other routers for longer than a fixed period, the router updates the contents of routing table and establishes another path to avoid the faulty router ( protocol packet is a configure packet). Therefore, it would have been obvious that the protocol packet can be a link down packet to notify that a router has failed or a configured packet when the router establishes an alternate path.

Claims 111, 118, 124, 131, 137, 144, 150, 157, 163, 177, 191, 205, 224 are rejected under 35 USC 102(e) as being anticipated by Fukushima et al. (Pat. 6,490,246 B2). In claims 111,124, 137, 150, Fukushima et al. discloses, a method of processing a get link state advertisement packet comprising receiving the get link state advertisement packet (fig.8, step 121, receiving a Hello packet/routing protocol packet) at a downstream node (at routers 30; col.10, lines 20-25; fig.1), wherein the get link state advertisement packet ( the Hello packet) is sent by a sending node (from router calculating unit 11; fig.2), the get link state advertisement packet comprises at least one node identifier (see col.1, lines 45-50; the hello packet comprises a list of other routers' IDs in the same network); said at least node Id (each router) identifies a node in the network for which the sending node seeks link state advertisement (see col.2, lines 15-20; checks if each of routers has received network link state information and in col.2, lines 27-32, " if there is any other router from which the router has not received hello packet for longer than a fixed period, the router decides that a failure has occurred in

this other router"). The downstream node and said sending node are nodes in the network (the two routers are connected to the same network); sending at least one link state advertisement from the down stream node to the sending node ( fig.8, steps 122, 124 and fig.9, steps 131,133; network link state information received from neighbor node); and sending an acknowledgement of the at least one link state advertisement to the downstream node ( fig.9, step 135 and fig.10, step 143, sending update information).

IN claim 224, Fukushima discloses the sending node seeks link state advertisement is a failed node ( see col.7, lines 40-55, when route calculation unit 11a fails, link state information in databases 22 of route calculating units 11a and 11B exchanged).

In claims 163, 177, 191 and 205, Fukushima et al. discloses receiving a hello packet at a downstream node, wherein said hello packet comprises a link state advertisement (see col.10, lines 15-30, fig.8, step 121, router 10 receives hello packets, wherein the hello packet comprises network link state information. See step 124); processing said link state advertisement comprises sending said link state information from down stream node (see fig.8, steps; 125 col.10, lines 25-30; sending the network link state information to protocol information manager module 15); sending link states acknowledgement from the downstream node (see fig.8, step 125, col.10, lines 26-40; the sending of network link state information is an acknowledgement which the manager 15 checks if the received information is the network linkstate information, see fig.9, steps 131,133).

Claims 165-168, 179-182, 193-196, 207-210, 222 are rejected under 35 USC103(a) as being unpatentable over Spiegel et al. ( US Pat. 5,649,108) in view of Fukushima et al. (Pat. 6,490,246 B2).

In claims 165, 166, 167, 168, 179, 180, 181, 182, 193, 194, 195, 196, 207, 208, 209, 210, Spiegel et al. does not disclose determining if said LSA corresponds to an entry in a link state database maintained at said downstream node; If the LSA is not a corresponding to an entry in a Link state database, adding the LSA to said link state database; and if said LSA corresponds to an entry in a LSDB , determining if a node originating said LSA is a node originating a LSA corresponding to said entry in said link state database.

Fukushima discloses determining if said LSA corresponds to an entry in a link state database maintained at said downstream node ( see fig.9, col.10, lines 35-45; step 131, 133; determining if the received LSA the same with contents in link state database 22); If the LSA is not a corresponding to an entry in a Link state database, adding the LSA to said link state database ( fig.9, col.10, lines 42-52; steps 133&134; if the received LSA does not agree with contents in the LSDB 22, updating the link state database 22 comprising adding new LSA to the LSDB 22); and if said LSA corresponds to an entry in a LSDB , determining if a node originating said LSA is a node originating a LSA corresponding to said entry in said link state database ( see fig.9, step 133; col.10, lines 46-52; if agreement is confirmed, no need to update the LSDB 22 which means that one node send a LSA and another LSA in the LSDB 22). Therefore, it would have been obvious to one skilled in the art to use the teachings of Fukushima into Spiegel et



al. to determine whether the LSA corresponds to a LSA entry in LSDB; or update the LSDB by adding the new LSA.

***Allowable Subject Matter***

Claims 54, 113-117, 119-123, 126-130, 132-136, 139-143, 145-149, 152-156, 158-162, 169-176, 183-190, 197-204, 211-221, 223 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In claim 54, the prior art fails to disclose command -specific data comprises a link state advertisement count field.

IN claims 113, 119, 126, 132, 139, 145, 152, 158, 219, 220, the prior art fails to disclose building a first list from a link state database maintained at said downstream node, wherein said first list comprises any link state advertisements received from a node other than said sending node, and said at least one link state advertisement is included in said first list.

In claims 169, 183, 197, 211, 221, the prior art fails to disclose determining if said link state advertisement is more recent than said link state advertisement corresponding to said entry in said link state database.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Perlman et al. ( US Pat. 5086428);

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 571 272 3092. The examiner can normally be reached on 8:30 to 4:30. The examiner can also be reached on alternate .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang Yao, can be reached on 571 272 3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hanh Nguyen/  
Primary Examiner, Art Unit 2416